

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #7	CCRB Case #: 201807266	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 08/19/2018 5:13 PM	Location of Incident: 560 East 149th Street; En route to the 40th Precinct stationhouse; 40th Precinct stationhouse	Precinct: 40	18 Mo. SOL 2/19/2020	EO SOL 2/19/2020	
Date/Time CV Reported Sun, 08/19/2018 7:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/03/2018 12:21 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Dennis Zhang	17734	959405	040 PCT
2. POF Fresia Maciasburgos	18286	955108	040 PCT
3. POM Steven Echevarria	22749	962374	040 PCT
4. SGT Hamlet Hernandez	04178	945817	040 PCT
5. POM Johnnanthon Alexander	21932	927841	040 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Manuel Siles	00844	963758	040 PCT
2. POM Justin Ludvick	04040	959771	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Hamlet Hernandez	Force: At 560 East 149th Street in the Bronx, Sergeant Hamlet Hernandez used physical force against § 87(2)(b)	
B.POM Dennis Zhang	Force: At 560 East 149th Street in the Bronx, Police Officer Dennis Zhang used physical force against § 87(2)(b)	
C.POF Fresia Maciasburgos	Force: At 560 East 149th Street in the Bronx, Police Officer Fresia Maciasburgos used physical force against § 87(2)(b)	
D.POM Steven Echevarria	Force: At 560 East 149th Street in the Bronx, Police Officer Steven Echevarria used physical force against § 87(2)(b)	
E.POM Johnnanthon Alexander	Discourtesy: At the 40th Precinct stationhouse, Police Officer Johnnanthon Alexander spoke discourteously to § 87(2)(b)	

Case Summary

On August 19, 2018, Sergeant Hamlet Hernandez of the 40th Precinct called the IAB Command Center and reported this complaint on behalf of § 87(2)(b). On September 3, 2018, the case was received at the CCRB.

On August 19, 2018, at approximately 5:20 p.m., Sgt. Hernandez and Police Officers Dennis Zhang, Fresia Maciaburgos, and Steven Echevarria of the 40th Precinct arrested § 87(2)(b) inside 560 East 149th Street in the Bronx for trespassing, and allegedly used physical force against him (**Allegation A through D: Force, § 87(2)(g)**). At the 40th Precinct stationhouse, Police Officer Johnanthon Alexander spoke discourteously towards § 87(2)(b) (**Allegation E: Discourtesy, § 87(2)(g)**).

The criminal case against § 87(2)(b) stemming from this incident remains open § 87(2)(b).

Sgt. Hernandez, PO Zhang, PO Maciaburgos, and PO Echevarria recorded the entirety of this incident on their body worn cameras (Board Review 02 through Board Review 08).

Findings and Recommendations

Allegation (A) Force: At 560 East 149th Street in the Bronx, Sergeant Hamlet Hernandez used physical force against § 87(2)(b)

Allegation (B) Force: At 560 East 149th Street in the Bronx, Police Officer Dennis Zhang used physical force against § 87(2)(b)

Allegation (C) Force: At 560 East 149th Street in the Bronx, Police Officer Fresia Maciaburgos used physical force against § 87(2)(b)

Allegation (D) Force: At 560 East 149th Street in the Bronx, Police Officer Steven Echevarria used physical force against § 87(2)(b)

§ 87(2)(b) has become unavailable to the investigation despite extensive contact attempts made to him (Board Review 01).



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PO Maciaburgos BWC (Board Review 02) shows Sgt. Hernandez, PO Zhang, and PO Echevarria handcuffing § 87(2)(b) inside Fresco's Pizzeria and escorting him outside. PO Echevarria and PO Zhang order § 87(2)(b) to walk to a marked van that is parked approximately five feet away from the sidewalk, but he refuses and says he's waiting for his wife. The officers place their hands underneath § 87(2)(b)'s right and left armpits, respectively, and escorts him to the marked van. § 87(2)(b) attempts to free himself from the officers' grips and says they are "hurting his arms" and using excessive physical force against him (04:32 minutes). § 87(2)(b) also refuses to enter the marked van, but the officers hold him by his armpit and place him in the vehicle. At 5:15 minutes, § 87(2)(b) attempts to free himself from the officers' grips and exit from the van, but PO Echevarria pushes him on his chest and he falls backwards on the second-row seat. § 87(2)(b) again attempts to exit from the vehicle, but PO Zhang stands by the door and prevents him from exiting. PO Zhang, Sgt. Hamlet, and PO Maciaburgos push § 87(2)(b) away from the door and hold his arms and shoulders so as to prevent him from making movements in the vehicle (08: 50 minutes). The officers hold § 87(2)(b)'s arms and shoulders, and pin him against his seat during the transport to the 40th Precinct stationhouse. At 10:41 minutes, the officers and § 87(2)(b) arrive in front of the 40th Precinct stationhouse, but § 87(2)(b) refuses to exit. PO Zhang holds § 87(2)(b)'s arms, while PO Echevarria and Sgt. Hamlet hold his legs and waist, respectively, and they remove him from the vehicle. The officers sit § 87(2)(b) on the

ground and order him to stand up, but he refuses and hurls profanities at them. The officers hold § 87(2)(b) s arms and lift him up, at which point he attempts to free himself from their grip, but is unsuccessful. § 87(2)(b) is escorted inside the stationhouse and brought before the desk. He yells that the officers physically assaulted him and violated his constitutional rights. § 87(2)(b) does not have any visible injuries on his person.

The Threat Resistance and Injury Report (TRI) prepared by the Sgt. Hernandez, PO Zhang, PO Maciaburgos and PO Echevarria, all indicate that the officers used force against § 87(2)(b) in an attempt to restrain him and prevent him from hurting himself and officers. The TRI also notes that § 87(2)(b) did not sustain any physical injuries, but complained of pain to his arms and legs, and that he was subsequently transported to Lincoln Hospital for an evaluation (Board Review 09).

Officers may use force when it is reasonable to ensure their safety or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or prevent an escape from custody. NYPD Patrol Guide Procedure 221-01 (Board Review 10).

§ 87(2)(g)

[REDACTED]

Allegation (E) Discourtesy: At the 40th Precinct stationhouse Police Officer Johnanthon Alexander spoke discourteously to § 87(2)(b)

As discussed earlier, § 87(2)(b) has become unavailable to the investigation.



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PO Zhang's BWC (see above file (Board Review 04)) shows § 87(2)(b) in front of the desk of the 40th Precinct stationhouse yelling and screaming that he was "assaulted" and "abused" by the officers who arrested him. § 87(2)(b) request medical attention and also asks to speak to a supervisor. One of the officers inform him that he would receive medical attention after he's been searched and lodged in the holding cell. § 87(2)(b) says no, voluntarily falls to the floor, and demands medical attention (A refusal to provide medical attention allegation was not pled because § 87(2)(b) was ultimately removed to the hospital). At 02:01 minutes, PO Johnanthon Alexander orders § 87(2)(b) to get up from the floor and tells him twice to "Stop with this bullshit." PO Echevarria and Sgt. Hamlet pick § 87(2)(b) from the floor and escort him away from the desk.

PO Alexander (Board Review 11) did not recall this incident, except that he was stationed as the front desk when officers entered with § 87(2)(b) who was yelling and screaming profanities, but PO Alexander did not recall what he said. PO Alexander moved away from the desk and assisted the officers in searching § 87(2)(b). § 87(2)(b) was then lodged in a holding cell. PO Alexander did not have any subsequent interactions with § 87(2)(b) nor did he recall using any profanities against him.

PO Alexander reviewed the above referenced video and identified himself as the officer who made the alleged statement to § 87(2)(b) PO Alexander said he made the statement to § 87(2)(b) because § 87(2)(b) was refusing to get up from the floor and was acting belligerently.

Patrol Guide Procedure 203-09 states that officers must be courteous and respectful in their interactions with the public. (Board Review 12)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 13).
- Sgt. Hernandez has been a member-of-service for 10 years and has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
[REDACTED]
- PO Maciaburgos has been a member-of-service for five years and has been a subject in three CCRB complaints and four allegations, of which one was substantiated:
 - Case #201800806 involved a substantiated discourtesy word allegation against PO Maciaburgos. The Board imposed command level instructions. The NYPD is yet to impose discipline.
- PO Echevarria has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Zhang is no longer a uniformed-member- of service.
- PO Alexander has been a member-of-service for 17 years and has been a subject in three CCRB complaints, none of which were substantiated. § 87(2)(g)
[REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On November 20, 2018, a Notice of Claim inquiry was sent to the NYC Office of the Comptroller, and the inquiry is still pending. The results will be added to the case file upon receipt (Board Review 14).
- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date